

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS
AUTHORIZATION ACT OF 1998

MAY 13, 1998.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

REPORT

[To accompany H.R. 3504]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 3504) to amend the John F. Kennedy
Center Act to authorize appropriations for the John F. Kennedy
Center for the Performing Arts and to further define the criteria
for capital repair and operation and maintenance, having consid-
ered the same, report favorably thereon with an amendment and
recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof
the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “John F. Kennedy Center for the Performing Arts
Authorization Act of 1998”.

SEC. 2. CAPITAL REPAIR DUTIES.

Section 4(a)(1)(G) of the John F. Kennedy Center Act (20 U.S.C. 76j(a)(1)(G)) is
amended to read as follows:

“(G) with respect to the building and site of the John F. Kennedy Center
for the Performing Arts, plan, design, and construct each capital repair, re-
placement, improvement, rehabilitation, alteration, or modification nec-
essary to maintain the functionality of the building and site at current
standards of life, safety, security, and accessibility.”.

SEC. 3. OPERATION AND MAINTENANCE DUTIES.

Section 4(a)(1)(H)(ii) of the John F. Kennedy Center Act (20 U.S.C. 76j(a)(1)(H)(ii))
is amended to read as follows:

“(ii) with respect to the building and site of the John F. Kennedy
Center for the Performing Arts, all necessary maintenance, repair, and
alteration of, and all janitorial, security, and other services and equip-

ment necessary for the operations of, the building and site, in a manner consistent with requirements for high quality operations; and”.

SEC. 4. REPEAL OF AUDIT REQUIREMENT.

Section 6 of the John F. Kennedy Center Act (20 U.S.C. 76l) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 12 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended by striking subsections (a) and (b) and inserting the following:

“(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

“(1) \$13,000,000 for fiscal year 1999;

“(2) \$14,000,000 for each of fiscal years 2000 and 2001; and

“(3) \$15,000,000 for each of fiscal years 2002 and 2003.

“(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

“(1) \$20,000,000 for each of fiscal years 1999, 2000, and 2001;

“(2) \$19,000,000 for fiscal year 2002; and

“(3) \$17,000,000 for fiscal year 2003.”.

PURPOSE AND SUMMARY

The purpose of this legislation is to reauthorize federal funding for the operations, maintenance, security and capital repair of the Kennedy Center established in P.L. 103–279, the Kennedy Center Act Amendments of 1994. Funding under H.R. 3504, as amended, includes a total of \$59 million for operations, maintenance and security through FY 2003; and \$87 million for capital improvements through FY 2003. These totals are in addition to existing authority contained in P.L. 103–279 for FY 1999 operations, maintenance and capital improvement.

NEED FOR LEGISLATION

The John F. Kennedy Center for the Performing Arts is a national presidential monument and living memorial. The building was constructed in the late 1960’s, and was officially opened in September 1971. The concept of a National Cultural Center was initiated by the Eisenhower Administration, and in 1958 was federally chartered by Congress. In 1964 Congress changed the designation to honor the late President Kennedy.

Funds for the construction costs of \$78 million came from three sources: private donations of \$34.5 million; \$23 million appropriated by Congress; and a federally approved bond issue of \$20.4 million, dedicated to the construction of the parking garage.

The Kennedy Center contains approximately 1.5 million square feet of space, and today, houses eight theaters: the Concert Hall (2,700 seats); the Opera House (2,300 seats); the Eisenhower Theater (1,100 seats); the Terrace Theater (500 seats); the Theater Lab (400 seats); the Encore Cabaret (200 seats); the American Film Institute (200 seats); and the Millennium Stage. In addition, the building houses three restaurants; office, meeting and rehearsal space; twenty-three elevators, six escalators, and 2,000 doors; and five public halls or galleries. The facility is situated on 17 acres of land in an area known as Foggy Bottom, along the Potomac River. The Center currently has parking for 1,450 cars. However, under legislation enacted in 1997, parking will expand by an additional 800–900 spaces, in order to accommodate the heavy demand. In

1997, the Center hosted 1.7 million patrons, who attended 2,800 performances; and accommodated 3.5 million visitors touring the building during the day. It is estimated that the cost to construct the Kennedy Center in today's dollars would exceed \$500 million.

When the Kennedy Center opened in 1971, popularity exceeded expectations, and the National Park Service required additional funds to operate and maintain the facility. In FY 1972 Congress appropriated \$1.5 million to the Park Service, and continued funding the operations of the building through 1994, when Congress transferred responsibility of the building to the Kennedy Center Board of Trustees. From 1972 to 1994, Congress appropriated \$103 million for operations and maintenance for the Center, of which the Kennedy Center reimbursed the Park Service approximately \$42 million for its share of maintenance in connection with performing arts functions. P.L. 103-279 transferred operational responsibility of the building to the Board of Trustees, and beginning in FY 1995, funds for operations were appropriated directly to the Kennedy Center. Since then, Congress has appropriated approximately \$10.5 million per year for operations. In FY 1998 Congress appropriated \$11.3 million, recognizing a growing backlog of minor repair items needing attention.

Between 1989 and 1994, Congress appropriated \$61 million for major renovations to the building, including replacement of the roof and the rebuilding of the parking garage. Of that amount, \$14 million went for repayment of prior maintenance work performed by the Park Service. Until 1989, the only major repair project was a temporary roof replacement which took place in 1976.

In 1991, Congress began regular funding of capital improvements. The building was showing signs of aging, and no major effort had gone into systems replacement. However, the arrangement between the Park Service and the Center for the contracting of construction work became increasingly cumbersome. There was a lack of coordination in scheduling the construction work, which led to interference with important theater events and performances. Many times, construction work was suspended in order to allow production companies access to the building to set up or build theater set designs.

Congress also was impaired by the effects of the split jurisdiction. The Committee on Public Works and Transportation, now known as the Committee on Transportation and Infrastructure, was the committee of jurisdiction over the Kennedy Center, since it authorized the construction of the facility. However, the Committee on Natural Resources, now known as the Committee on Resources, had jurisdiction over the structure as a memorial to the late president. When Congress enacted P.L. 103-279, the Natural Resources Committee relinquished its role in the operational aspects of the Center and transferred all jurisdiction over the Center to the Committee on Public Works and Transportation.

P.L. 103-279 provided a five year authorization for operations, maintenance, and security at a level of \$12 million per year through FY 1999; and capital improvements for the Center at a level of \$9 million per year through FY 1999. The legislation also transferred responsibility for these functions from the National Park Service to the Board of Trustees of the Kennedy Center. This

change was viewed as an important milestone for the Center. Now the Center has the independence to contract for improvements to accommodate the performance schedules of the theaters.

In addition, P.L. 103-279 required the Center to prepare and submit to Congress a five year comprehensive plan, referred to as the master plan. This plan details the remaining capital improvement work on the Center, and recommends the sequence for which the work will take place. The legislation also required an annual update of the master plan, with appropriate changes. The first plan was submitted to Congress in the summer of 1995, and updates have been submitted annually. This plan addresses the remaining work, including the renovation of the Opera House and the Central Block of the structure.

While the Kennedy Center did not have sufficient in-house capability to contract for major construction work when these changes were enacted in 1994, it has relied on other federal agencies, such as the Corps of Engineers and the General Services Administration, for its contracting needs. The General Accounting Office (GAO) has reviewed the Center's management and controls, and noted in testimony that the Center has developed a facility management capability that accurately tracks and manages appropriated funds usage. The Center has purchased four modules of a computer-integrated facility management system to assist in the management of the Center's inventory of assets and maintenance functions, including preventive maintenance, demand maintenance, and preventive maintenance. The Center also has developed a data base in which all other data from all other modules are to be maintained.

GAO, in its testimony on March 25, 1998, recommended that Congress delete the requirement of a periodic audit of the Center conducted by GAO. There is sufficient management control in place, and a GAO audit only duplicates the annual audit for which the Center contracts to accompany its annual reports. There appears to be sufficient confidence in the management of the Kennedy Center to eliminate the need for a periodic audit by GAO.

P.L. 103-279 also provided for those Park Service employees associated with the management of the Center, to be transferred to the employ of the Center with no loss of federal service. To date, approximately 55 former Park Service employees are now employed by the Center. Additionally, the Center contracts for routine services, including: cleaning; security; maintenance of systems; inspections; and environmental and safety upgrades, among other activities.

The Center also contracts for major renovations. The recent renovations to the Concert Hall were completed on time and within a revised budget. Accessibility to the Concert Hall now meets the requirements mandated in the Americans with Disabilities Act. The roof replacement is now complete, and was completed under budget, and roof terrace repairs are substantially complete. Security system enhancements are 95% complete. Chiller replacement is complete. Interior lighting has been replaced. All of the work performed has been accomplished with four in-house contracting personnel of the Center.

H.R. 3504, as amended, extends authority, first provided in 1991, and continued under the 1994 legislation, to make needed changes to the structure for the long term. As originally drafted, the bill would have provided an eleven year authorization for maintenance, repairs and security, as well as capital improvements. This bill, endorsed by the Administration, provides funding for the Center to renovate the Opera House and Central Block, including rehearsal rooms, office space, and mezzanine modernization. Work will also include implementation of repairs to protect the building from water intrusion, provide additional life safety and fire safety measures, and provide improved accessibility for the disabled and egress for visitors to the Center. All of these efforts have been identified as work under Phase II of the master plan, which incorporates the recommendations of the Interpretative Master Plan and Signage Program, Energy Master Plan, and Space Use Master Plan. The reported bill limits the authorization to five years, but will not interfere with the renovation plans of the Center.

The bill further provides the Center with greater flexibility for undertaking major renovations to the facility. P.L. 103-279 stipulated that federal funds could only be spent on the structure in existence at the time of passage of the 1994 legislation. This language would have the unintended consequence of prohibiting the Center from improving, enhancing or modernizing the building, and making needed changes to the interior of the building, such as adding a mezzanine level to the Opera House. Section 2 of the bill allows the Center to make such changes to the building that maintains its functionality, and section 3 allows the Center to operate and maintain those changes to the building using federal funds. The prohibition of the use of federal funds for performing arts use still remains in effect.

The Opera House renovation will involve the reconfiguration of the entry to the facility, in order to make the facility accessible under the Americans with Disabilities Act (ADA) and provide better emergency egress for life and fire safety. This will involve the redesign of the interior space to create added floor area, including the expansion of the box-tier mezzanine into the grand foyer, to keep the same numbers of seats. Otherwise, these changes will result in the loss of several hundred seats, and would impact the financial viability of the Center. By designing these modifications in such a way to maintain the current seating capacity, the Center will maintain the functionality of the Opera House, and meet modern standards for fire safety, life safety, and accessibility.

Authorizations contained in H.R. 3504, as amended, includes the following levels of funding for maintenance, repair and security; an increase from \$12 million to \$13 million in FY 1999, \$14 million for each year in FY 2000-2001, and \$15 million for each year in FY 2002-2003, for total new authority of \$59 million. Capital project funding includes an increase from \$9 million to \$20 million in FY 1999, \$20 million for each year in FY 2000-2001, \$19 million in FY 2002, and \$17 million in FY 2003, for a total of \$87 million. Funding for capital projects are larger in the first three years of this authorization in order to provide sufficient authority to cover the cost of the renovations to the Opera House and Central Block

of the building, all of which is expected to cost approximately \$60 million.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides the short title of the act as the “John F. Kennedy Center for the Performing Arts Authorization Act of 1998”.

Section 2. Capital repair duties

Section 2 clarifies section 4(a)(1)(G) of the John F. Kennedy Center Act regarding the purposes for which capital repairs may be made to the building. The 1994 amendments added this section which restricted the use of appropriated funds to the existing building, and prohibited the use of appropriated funds for building additions. Section 2 restates current law to clarify the objective of the capital improvements to bring the building facilities up to modern standards, including standards of life safety, security, accessibility that are not referenced in current law. This clarification also allows the Board to design and execute capital improvements that maintain the functionality of the building’s facilities.

Section 3. Operations and maintenance duties

Section 3 modifies section 4(a)(1)(H)(ii) of the Kennedy Center Act to allow the Board to maintain facilities of the building that are added subsequent to the 1994 amendments. Those amendments limited the expenditure of Federal funds to operate and maintain the building as it existed at the time of passage of the 1994 amendments. Subsequent facility modifications such as a new traffic circulation pattern to enhance security could not be maintained unless current law is modified to allow the expenditure of funds for this and other purposes.

Section 4. Repeal of audit requirement

Section 4 deletes section 6(d) which required the General Accounting Office to audit, at least once every three years, the accounts of the Kennedy Center for the purpose of auditing the expenditure of Federal funds authorized by the Kennedy Center Act.

Section 5. Authorization of appropriations

Section 5 amends section 12 of the Act to increase authorizations for maintenance, repair and security for FY 1999 from \$12 million to \$13 million, and authorizes \$14 million for FY 2000, \$14 million for FY 2001, \$15 million for FY 2002 and \$15 million for FY 2003. Total new authority is \$58 million.

Section 5 also increases authorization for capital improvements in FY 1999 from \$9 million to \$20 million, and authorizes \$20 million in FY 2000, \$20 million in FY 2001, \$19 million in FY 2002 and \$17 million in FY 2003. Total new authority is \$87 million.

COMMITTEE CONSIDERATION

H.R. 3504, the “John F. Kennedy Center for the Performing Arts Authorization Act” was introduced on March 19, 1998, by request, by Congressman Bud Shuster and Congressman Jim Oberstar. The

bill was referred solely to the Committee on Transportation and Infrastructure, and in turn referred to the Subcommittee on Public Buildings and Economic Development. The Subcommittee held a hearing on the bill on March 25, 1998, and on April 30, 1998 favorably reported the bill by voice vote, with an amendment in the nature of a substitute.

Clause 2(l)(2) (A) and (B) of rule XI requires that a majority of a committee be present in order to report a measure; and that each committee report include that total number of votes cast for and against each roll call vote on a motion to report the measure and the names of those members voting for and against. The Committee on Transportation and Infrastructure at a meeting on May 6, 1998, a quorum being present, unanimously approved H.R. 3504, as amended, by voice vote, and ordered it reported.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, oversight findings and recommendations have been made by the Committee as reflected in this report.

COST OF THE LEGISLATION

Clause 7 of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3504.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3504 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 6, 1998.

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3504, the John F. Kennedy Center for the Performing Arts Authorization Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Sadoti.
Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3504—John F. Kennedy Center for the Performing Arts Authorization Act of 1998

Summary: H.R. 3504 would provide additional authorizations in the amount of \$146 million for capital projects, operations, and maintenance at the John F. Kennedy Center for the Performing Arts for fiscal years 1999 through 2003. Because H.R. 3504 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 3504 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3504 is shown in the following table.

The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

	By fiscal years, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Authorizations Under Current Law:						
Authorization Levels	20	21	0	0	0	0
Estimated Outlays	18	20	9	4	3	1
Proposed Changes:						
Authorization Levels		12	34	34	34	32
Estimated Outlays		4	19	26	30	33
Authorizations Under H.R. 3504:						
Authorization Levels	20	33	34	34	34	32
Estimated Outlays	18	24	29	30	33	34

Basis of estimate: H.R. 3504 would amend the John F. Kennedy Center Act to reauthorize appropriations for the John F. Kennedy Center. The bill would authorize spending on maintenance, repair, and security at \$13 million for 1999, \$14 million for each of fiscal years 2000 and 2001, and \$15 million for each of fiscal years 2002 and 2003. Capital projects would be authorized at \$20 million annually for fiscal years 1999–2001, \$19 million for fiscal year 2002, and \$17 million for fiscal year 2003. Currently these functions are authorized through fiscal year 1999—maintenance, repair and security at \$12 million and capital projects at \$9 million. Thus, enactment of H.R. 3504 would result in a net increase in authorizations of \$12 million for fiscal year 1999 and \$146 million over the 1999–2003 period. Assuming that the amounts authorized are appropriated and that spending follows historical outlay patterns, H.R. 3504 would result in increased outlays of \$112 million during fiscal years 1999–2003.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 3504 contains no intergovernmental or private-sector mandates as defined in the

Unfunded Mandates Reform Act of 1995 and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Cost: Christina Hawley Sadoti. Impact on State, Local, and Tribal Governments: Marc Nicole. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (2)(1)(4) of rule XI of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

JOHN F. KENNEDY CENTER ACT

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SEC. 4. DUTIES OF THE BOARD.

(a) PROGRAMS, ACTIVITIES, AND GOALS.—

(1) IN GENERAL.—The Board shall—

(A) * * *

* * * * *

[(G) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994 (including a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature;]

(G) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary to maintain the functionality of the building and site at current standards of life, safety, security, and accessibility;

(H) provide—

(i) * * *

[(ii) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994

(including a theater, the garage, the plaza, or a building walkway), all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operation of, the feature, in a manner consistent with requirements for high quality operations; and】

(ii) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operations of, the building and site, in a manner consistent with requirements for high quality operations; and

* * * * *

ADMINISTRATION

SEC. 6. (a) * * *

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【(d) AUDIT OF ACCOUNTS.—Not less than once every 3 years, the Comptroller General shall review and audit the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under the authority provided by this Act.】

【(e)】 *(d) INSPECTOR GENERAL.*—The functions of the Board funded by funds appropriated pursuant to section 12 shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App. 3). The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of such Act on behalf of the Board, on a reimbursable basis when requested by the Board.

【(f)】 *(e) PROPERTY AND PERSONNEL COMPENSATION.*—

(1) * * *

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SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

【(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H) \$12,000,000 for each of fiscal years 1995 through 1999.

【(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1) \$9,000,000 for each of fiscal years 1995 through 1999.】

(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

(1) \$13,000,000 for fiscal year 1999;

(2) \$14,000,000 for each of fiscal years 2000 and 2001; and

(3) \$15,000,000 for each of fiscal years 2002 and 2003.

(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

(1) \$20,000,000 for each of fiscal years 1999, 2000, and 2001;

(2) \$19,000,000 for fiscal year 2002; and

(3) \$17,000,000 for fiscal year 2003.

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